

RECEIVED  
CENTRAL FAX CENTER

JUL 10 2007

REMARKS

Office Action mailed March 16, 2007 has been received and reviewed. Claims 1-21 are in the case. Claims 16-21 have been removed from consideration. Claims 1-15 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1-15 stand rejected under 35 U.S.C. § 103(a).

By this paper, claims 1 and 10 have been amended. For the reasons set forth below, claims 1-15 are believed to be in condition for immediate allowance. Favorable reconsideration of the application in view of the following remarks is, therefore, respectfully requested.

Rejection of Claims 1-15 Under 35 U.S.C. 112, Second Paragraph

Claims 1-15 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action asserts that claims 1 and 10 recite "enforcing" in their preambles, but do not recite any enforcing functionality. Accordingly, by this paper, the "enforcing" language has been removed from the preambles of claims 1 and 10. Reconsideration is, therefore, respectfully requested.

Rejection of Claims 1-9 Under 35 U.S.C. §103(a)

Claims 1-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kobata. However, to establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP 2143. With respect to Applicant's newly amended claims, Kobata does not satisfy that requirement.

For example, with respect to claims 1-9, Applicant recites discovering the existence and artificiality of an embedded defect. While Kobata teaches a system to "ascertain problems at the

client side,” Kobata at col. 2, ln. 4, Applicant does not find in Kobata any teaching or suggestion of discovering whether the problem is artificial. Discovering the existence of a problem requires a first, superficial analysis. Discovering whether the problem is artificial requires a second, deeper analysis. Applicant asserts that Kobata does not teach or suggest going to that second, deeper analysis.

Moreover, Applicant’s newly amended claims further recite disclosing the existence and artificiality of the embed defect. While Kobata teaches a system to, when unable to fix a problem, “at least alert the user as to the existence of the problem,” Kobata at col. 4, lns. 1-3, Applicant does not find in Kobata any teaching or suggestion of disclosing that the problem is artificial.

Applicant asserts that Kobata does not teach or suggest this deeper analysis or additional disclosure because Kobata is operating on a different philosophy than Applicant’s recited method. In Kobata, the focus is on quick fixes for individual customers (i.e., repair mode). For that reason, Kobata states that the invention can fix problems “without having to interface with the client” and in “a minimum of client time and frustration.” See Kobata at col. 2, lns. 4-10. Accordingly, Applicant asserts that Kobata teaches against any action like informing a client his computer problem was artificially embedded by the supplier. To do so would surely infuriate the client and magnify the frustration Kobata seeks to minimize. Moreover, such addition disclosure would not solve the immediate problem at hand.

Applicant’s recited method, on the other hand, focuses on correcting defects at their source and deterring suppliers from ever embedding certain kinds of defects (i.e., prevention mode). Under such a philosophy, actions like informing an individual, company, or public that its computer defects were artificially embeded by the supplier may result in significant economic

and political pressure being applied, urging to supplier to correct the defect and ensure that no such defects are embedded in the future.

With respect to claim 2, to establish a *prima facie* case of obviousness, there must be some suggestion or motivation to modify the Kobata in the manner suggested by the Office Action. *See* MPEP 2143. Applicant finds no such motivation. Rather, Applicant asserts that Kobata is completely incompatible with, and teaches strongly against, Applicant's recited public disclosure of the embedded defect.

Specifically, Kobata teaches a system remotely providing technical support for "clients." *See* Kobata at col. 1, ln. 66 through col. 2, ln. 10. In such a situation, those operating Kobata's system surely would have a duty to maintain client information in confidence. Accordingly, Applicant asserts that it would be wholly inappropriate and potentially legally actionable for an operator of Kobata's system to inform the world via the Internet, as suggested by the Office Action, of the particular computer problem of a client.

In view of the foregoing, Applicant finds that Kobata fails to teach or suggest all of claim limitations of Applicant's newly amended claims. Accordingly, Applicant asserts that the rejection of claims 1-9 based on Kobata is improper and should be withdrawn. Reconsideration of claims 1-9 is respectfully requested.

**Rejection of Claims 10-15 Under 35 U.S.C. §103(a)**

Claims 10-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kobata in view of Liability for Product Incompatibility ("Liability") and further in view of Moran. However, to establish a *prima facie* case of obviousness, the prior art reference (or references

when combined) must teach or suggest all the claim limitations. *See* MPEP 2143. The combination of Kobata, Liability, and Moran does not satisfy that requirement.

For example, Applicant's claims recite providing motivation to a supplier to correct an embedded defect in the supplier's product. The Office Action concedes that Kobata provides no such teaching or suggestion. Furthermore, the Office Action does not assert that Moran provides such as a teachings or suggestion. Accordingly, the propriety of the Office Action's rejection hinges on whether, as asserted by the Office Action, Liability teaches or suggests providing a motivation to a supplier to correct an embedded defect. Applicant finds that Liability does not provide that teaching or suggestion.

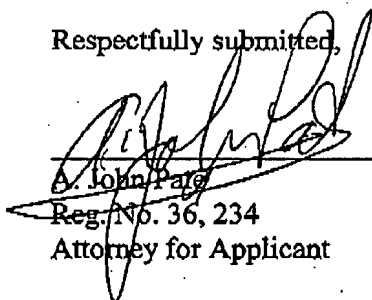
Rather, Applicant finds that Liability teaches the possibility of "lawsuits from dissatisfied customers" when a company falsely advertises that a product is compatible with some other product. *See* Liability at p. 1 and p. 2, lns. 1-2. Thus, Liability teaches not to lie about the compatibilities of one's software, as so doing may create legal liability under principles of "deceptive trade practices." *See* Liability at p. 2. Applicant asserts that Liability's teaching against lying does not equate to a teaching of a motivation to correct an embedded defect.

In view of the foregoing, Applicant finds that the combination of Kobata, Liability, and Moran fails to teach or suggest all of claim limitations of Applicant's claims. Accordingly, Applicant asserts that the rejection of claims 10-15 based on that combination is improper and should be withdrawn. Reconsideration of claims 10-15 is respectfully requested.

In the event that the examiner finds any remaining impediment to the prompt allowance of any of these claims, which could be clarified in a telephone conference, the examiner is respectfully urged to initiate the same with the undersigned.

DATED this 10<sup>th</sup> day of July, 2007.

Respectfully submitted,

  
D. John Pate  
Reg. No. 36, 234  
Attorney for Applicant

Date: July 9, 2007

PATE PIERCE & BAIRD  
550 Parkside Tower  
215 South State Street  
Salt Lake City, Utah 84111  
Telephone: (801) 530-0330  
Facsimile: (801) 530-5955

2436-2-0-4 PAT-FII-RQA2 070709.wpd